STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of ARMANI RAY STARKS, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

ASHLEY ANN HOEFT,

Respondent-Appellant,

and

LEON DARRYL STARKS,

Respondent.

UNPUBLISHED
February 28, 2008

No. 280595
Wayne Circuit Court
Family Division
LC No. 06-461334

Before: Whitbeck, P.J., and Jansen and Davis, JJ.

MEMORANDUM.

Respondent Ashley Hoeft appeals as of right from a circuit court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(a)(ii), (g), (j), and (k)(i). We affirm.

We find no merit to respondent's challenge to the trial court's exercise of personal jurisdiction. The record shows that personal service could not be made and that the trial court therefore authorized substituted service by certified mail and publication as provided in MCR 3.920(B)(4)(b). "Substituted service is sufficient to confer jurisdiction on the court." *In re SZ*, 262 Mich App 560, 565; 686 NW2d 520 (2004). Service was not required to be made in the manner prescribed by MCR 2.004 because respondent does not contend that she was under the jurisdiction of the Department of Corrections. MCR 2.004(A). Further, the record shows that personal service was attempted, and substituted service was effectuated, in February 2007, a month before respondent allegedly became incarcerated in the county jail. If she was not incarcerated, no special rules for service apply.

We also reject respondent's argument that termination of her parental rights was not in the child's best interests. We review the trial court's best interests decision for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Respondent argues that petitioner was required to prove that she would neglect the child for the long-term future as held in *Fritts v Krugh*, 354 Mich 97, 114; 92 NW2d 604 (1958), overruled on other grounds by *In re Hatcher*, 443 Mich. 426, 444; 505 NW2d 834 (1993). However, the *Fritts* decision was concerned with grounds for termination on the basis of abandonment, and it predates the enactment of MCL 712A.19b, which sets forth the current criteria for termination. Respondent does not challenge the trial court's determination that §§ 19b(3)(a)(ii), (g), (j), and (k)(i) were each established by clear and convincing evidence. Once a statutory ground for termination has been proven, "the court shall order termination of parental rights . . . unless the court finds that termination of parental rights to the child is clearly not in the child's best interests." MCL 712A.19b(5).

Respondent otherwise argues only that she should have had an opportunity to testify regarding "the possible bond" between herself and the child. However, this argument rests on the conclusion that that respondent was not properly served with process, an agrument that we disagreed with *supra*. Although leaving the child with the child's aunt, who had previously attempted to obtain a guardianship over the child, is not necessarily proof that termination *is* in the child's best interests – and may in fact suggest that respondent acted *responsibly* in the face of some inability to care for the child herself – we have not been presented with any indication of what this hypothetical testimony might show. We are simply unable to conclude from anything we have before us that termination was clearly *against* the child's best interests. Therefore, likewise we cannot conclude that the trial court erred in terminating respondent's parental rights to the child.

Affirmed.

/s/ William C. Whitbeck
/s/ Kathleen Jansen
/s/ Alton T. Davis